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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JARRETT MILLER,	Case No. 2:18-cv-00940-RFB-NJK
Plaintiff,	ORDER
v.	
JAMES DZURENDA et al.,	
Defendants.	

This action began with a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a former state prisoner. On May 29, 2019, this Court issued an order denying the application to proceed *in forma pauperis* for prisoners as moot because Plaintiff was no longer incarcerated. (ECF No. 4 at 1). The Court ordered Plaintiff to file a fully complete application to proceed *in forma pauperis* for non-prisoners or pay the full filing fee of \$400.00 within thirty (30) days from the date of that order. (*Id.* at 5). The thirty-day period expired, and Plaintiff has not filed an application to proceed *in forma pauperis* for non-prisoners, paid the full filing fee, or otherwise responded to the Court’s order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.

1 1992) (affirming dismissal for failure to comply with an order requiring amendment of
2 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal
3 for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of
4 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming
5 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
6 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with
7 local rules).

8 In determining whether to dismiss an action for lack of prosecution, failure to obey
9 a court order, or failure to comply with local rules, the court must consider several factors:
10 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
11 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
12 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
13 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at
14 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

15 Here, the Court finds that the first two factors, the public's interest in expeditiously
16 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
17 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
18 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
19 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
20 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
21 disposition of cases on their merits—is greatly outweighed by the factors in favor of
22 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
23 the court's order will result in dismissal satisfies the "consideration of alternatives"
24 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779
25 F.2d at 1424. The Court's order requiring Plaintiff to file an application to proceed *in forma*
26 *pauperis* for non-prisoners or pay the full filing fee within thirty (30) days expressly stated:
27 "IT IS FURTHER ORDERED that, if Plaintiff fails to timely file an application to proceed
28 *in forma pauperis* for non-prisoners or pay the full filing fee, the Court will dismiss this

1 case with prejudice.” (ECF No. 4 at 5). Thus, Plaintiff had adequate warning that
2 dismissal would result from his noncompliance with the Court’s order to file an application
3 to proceed *in forma pauperis* for non-prisoners or pay the full filing fee within thirty (30)
4 days.

5 IT IS THEREFORE ORDERED that this action is dismissed with prejudice based
6 on Plaintiff’s failure to file an application to proceed *in forma pauperis* for non-prisoners
7 or pay the full filing fee in compliance with this Court’s May 29, 2019, order.

8 IT IS FURTHER ORDERED that the Clerk of Court shall enter judgment
9 accordingly.

10 IT IS FURTHER ORDERED that the Clerk of the Court vacate the Inmate Early
11 Mediation Program scheduled for February 7, 2020 (ECF No. 19).

12 IT IS FURTHER ORDERED that the [20] Order to Produce is vacated.

13
14 DATED this 7th day of February 2020.



RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE